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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sierra)

In re J.W., a Person Coming Under the Juvenile Court
Law.

C090430

SIERRA COUNTY DEPARTMENT OF SOCIAL
SERVICES,

(Super. Ct. No. JV-1109)

Plaintiff and Respondent,

v.

K.B.,

Defendant and Appellant.

K.B., mother of the minor, appeals from the juvenile court's dispositional judgment adjudicating the minor a dependent child and placing him in father's custody, with services and visitation for mother. On appeal, mother challenges the juvenile court's jurisdiction, its decision to remove the minor from her custody, the minor's placement, and the visitation order. We shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On April 10, 2019, the Sierra County Department of Social Services (Department) filed a Welfare and Institutions Code section 300¹ petition on behalf of the five-year-old minor alleging he was suffering, or at risk of suffering, serious emotional damage as a result of mother's conduct. It alleged the minor was experiencing severe anxiety, as demonstrated by his nightmares, outbursts, persistent vomiting, and fear of mother harming him or his father if the minor called his father "Dad" or exhibited love for him. The petition further alleged the minor was at risk of suffering serious emotional damage because: (1) the minor said mother made him lie about alleged sexual abuse by father; (2) mother and maternal grandmother disparaged father and father's family in the minor's presence; and (3) mother recorded conversations between minor and father, even after she was ordered not to by the family court.

Mother and father were divorced after 21 months of marriage and had since been embroiled in a high-conflict custody battle, with allegations of rape, molestation, neglect, and emotional abuse, resulting in numerous referrals to child welfare services.

The Department received an emotional abuse referral in February 2019, after the minor revealed that mother called father and the paternal grandmother " 'bitch, dummy, stupid, a liar, and full of shit' " and that mother recorded minor's conversations with father while minor was visiting her. It also was reported the minor was extremely distraught after returning from mother's home, to the point of vomiting. The minor reported to his therapist and the paternal grandmother that mother had previously told him to lie and accuse father of sexual abuse, and that mother had told him his last name was the same as mother's last name, not father's.

¹ Undesignated statutory references are to the Welfare and Institutions Code.

The Department had proposed a safety plan to address the foregoing issues, but mother refused to sign it, or even to discuss or participate in creating a plan she *would* accept. The Department reported that there had been a noncourt family maintenance case that began in April 2017 and included individual counseling, coparenting classes, and parenting classes, but the services were not effective in stopping mother from disparaging the minor's paternal family or in eliminating future referrals for the same behavior.

On April 11, 2019, the juvenile court held a detention hearing and found the minor was suffering severe emotional damage, there were no reasonable means to safeguard his emotional health absent removal, and that reasonable efforts had been made to avoid the need for removal from parental custody. The minor was detained and placed in the Department's temporary care and custody for placement in the approved home of a relative. The Department placed the minor in father's care. Mother was provided supervised visitation.

The social worker's May 9, 2019 jurisdiction report stated the minor was persistently vomiting after returning from visits with mother, which was believed to be caused by anxiety. Father had observed bouts of uncontrollable crying, sometimes resulting in vomiting, after returning from mother. The minor also reported that he missed mother and relayed an instance of being awake all night and crying until he vomited because he missed her. The minor also reported his stomach hurt when he had to travel back and forth between his parents for visits. Father indicated that when he picked up the minor from mother, he was very anxious and expressed worry that his mother would die if he left her. The minor also told father he was afraid to go to sleep because he had dreams in which family members were dying.

The minor told the social worker and his therapist that his phone calls with father were always recorded while he was at mother's house. This made him uncomfortable, but he could not ask mother to stop. He said this was why he did not want to have calls with father. The minor and father reported that the minor referred to father by his first

name while on the phone with mother or speaking to father while at mother's house because he was afraid mother would punish him if he called father "Dad" or said he loved him. The social worker opined that the minor "knows both of his parents love him and yet he is caught in the middle where he feels the pressure of acting differently at each house."

The minor reported that mother and the maternal grandmother called father's family bad names including " 'bitch,' " " 'dummy,' " " 'stupid,' " " 'a liar,' " and said " 'his eyes look brownish, full of poop.' " Mother also repeatedly (and falsely) told the minor that his last name was not the same as father's. The minor also disclosed that mother had him lie at least three times about alleged abuse by father, which caused his stomach to hurt. The social worker's report also indicated there had been child welfare referrals in October 2016, December 2016, and March 2017 for alleged sexual abuse by father on the minor, which referrals were inconclusive or deemed unfounded. The minor said he wanted mother to stop telling him to lie about father. He did not think she would stop, however, because "she hasn't yet." He also expressed that the paternal grandmother could " 'never' " go to mother's house because mother " 'hates' " her.

Mother stated she had participated in 39 hours of coparenting classes in 2017. She also said she had not recorded the minor on the phone with father since the November 13, 2018 family court order prohibiting her from doing so and denied the remainder of the allegations in the petition. The social worker was concerned that many of the issues leading to the 2017 family maintenance case remained and mother needed services to understand the harmful effects of emotional abuse. The social worker also noted mother had been uncooperative and had not displayed "insights into the harmful effects of her actions or an ability to effectively co-parent with [father]."

The minor's therapist wrote, in a letter considered but not solely relied upon by the court, that during and after conversations with the minor, the minor exhibited anxiety and

was “quite dysregulated.” The minor was hyperactive, avoided eye contact, and was emotionally “shut down.” He also verbalized that he was sad, mad, and afraid.

Mother participated in a supervised visit on April 18, 2019. The visit went well and there was no inappropriate conversation in the minor’s presence. The minor pouted when the visit was ending. Father reported the minor was a little sad after the visit and said he missed mother, but there was no vomiting or sobbing and the minor was able to resume his normal schedule without incident.

On April 18, 2019, father filed a move-away request in the family law court, based on his military reassignment to South Carolina. In light of the ongoing dependency action, the court ordered the matter to trail the dependency case.

The jurisdiction hearing took place on May 9, 2019. The juvenile court found the minor was clearly exhibiting severe anxiety, with vomiting as a symptom. The court found all of the allegations in the petition true, except that mother was recording the minor’s conversations with father.

In the July 10, 2019 disposition report, the social worker observed that the minor struggled with missing both parents but had been coping much better. The minor was no longer crying until he vomited. Visits between mother and minor remained supervised. The social worker believed mother was attempting to hide her contempt for father but during an observed visit mother began to “overly question” the minor “as if fishing for information.” In response, the minor “immediately shut[] down and stop[ped] talking to her—as though he is on alert all the time to avoid saying ‘the wrong thing.’ ” Mother was reportedly working on transitions with the minor and encouraging him to refer to father as “Dad.”

The minor was observed to speak less freely when in mother’s presence. The minor still felt unsafe telling mother or the maternal grandmother that he loved father and stated he did not want the social worker to reveal his feelings to them on his behalf. The minor was observed to have an “open and easy” relationship with father. There was no

change in the minor's demeanor when in father's presence and father assured minor that it was "okay" to be sad and miss mother. The minor also appeared comfortable with the paternal grandmother.

The Department concluded that there was a substantial risk that emotional abuse would resume while in mother's home without a safety plan in place. The minor had done well during supervised visits, but it would be difficult to monitor what was being said in front of him if unsupervised visits resumed right away. It appeared mother was trying to insulate the minor from the negative comments, but the emotional damage was done at such a young age that it would not be enough to simply refrain from saying further negative things about father. Mother and maternal grandmother would need to proactively reassure the minor "that he is free to love all of his family."

On August 29, 2019, an addendum report was filed. The minor remained placed with father, who had relocated for military duty to South Carolina. The paternal grandmother also relocated to South Carolina. The minor's therapist met with the minor on July 11, 2019, before father moved. She reported the minor was doing well, but was anxious about starting a new school and making new friends. He was "happy, sleeping well and not experiencing any stomach issues, as he is known to do when anxious or stressed." She recommended the minor see a therapist at least twice a month to help him navigate life changes and address conflicts and stressors he may experience.

The social worker had visited father's home in South Carolina and found it appropriate. The minor had begun first grade, made new friends, and was adjusting well. The minor flew back to participate in supervised visits with mother, consisting of over six hours on each of two consecutive days. The visits went well but it was difficult for the minor to leave mother at the end of the first day. He separated more easily the second day. Mother refused to travel to South Carolina for visits, citing her disability.

Father participated in a psychological evaluation and his testing did not suggest the presence of any mental health issues or other limitations on his parenting capacity.

Mother also participated in a psychological evaluation. Mother reported she was diagnosed at age 11 with reflux sympathetic dystrophy, which causes “intense pain” in her body. Mother met the criteria for “Illness Anxiety Disorder, Care-Seeking Type,” and a disorder that relates to compulsive, borderline, and turbulent personality style. She also met the criteria for “Dependent Personality Disorder.” The psychologist recommended mother undergo group psychotherapy and intensive individual psychotherapy, and that her visits with the minor remain supervised for 12 months while she engaged in dialectical behavioral therapy. The psychologist opined mother was “not ready to see her son without supervision now. She needs to deal with her anxiety regarding serious medical illness as related to Reflex Sympathetic Dystrophy.”

The Department recommended the juvenile court adjudicate the minor a dependent child of the court, and order him placed with father, with supervised visitation for mother and services. On September 11, 2019, the juvenile court adjudged the minor a dependent. It found the minor was at risk of suffering serious emotional trauma and detriment, and removal from mother’s custody was the only means by which it could be prevented. The court found the minor has suffered severe anxiety, stress, and emotional trauma because of mother’s refusal to support the minor’s relationship with father, her efforts to thwart the minor’s relationship with father, and the burden the acrimonious custody dispute placed upon him. It found that mother still could not see, let alone accept, the detrimental effect her behavior had on the minor. The court ordered the minor placed with father, with supervised visitation for mother and family services. Mother received supervised in-person visits, with the Department providing transportation, and telephone or video visits on Tuesdays, Wednesdays, Thursdays, and Sundays at 4:00 p.m. Pacific Time, as well as phone calls immediately after visits, if requested by the minor.

DISCUSSION

I

Prior Custody

Because it is relevant to our analysis below, we first address the matter of custody of the minor prior to the juvenile court's disposition in this case. Mother's appellate briefs are premised on the idea that the prior family law custody order gave father sole physical custody of the minor at the time of the events alleged in the petition. Respondent's brief echoes this characterization. The appellate record, however, does not support this premise.² Rather, it shows the juvenile court found father had primary physical custody, with mother sharing joint physical custody.

The detention report likewise stated that father had "primary custody" and mother had "two-three weekends per month." Mother stated the minor lived "primarily" in Sacramento. Likewise, father stated he had "primary custody"—"approximately 80/20." At the detention hearing, at mother's request, the court expressly noted that "mother did not have primary custody of the child at the time of detention."

In a verified answer to mother's petition seeking recusal of Judge Durant, the judge observed that mother had been the primary caretaker but, after the most recent evaluation, the court ordered the minor to live primarily with father during the school year. Before the dependency petition was filed, parents had a "joint legal and physical custody order in their family law action with the child living with [father] during the school year with [mother] having most weekend parenting time and with the parties equally sharing the summer vacation utilizing a week on/off schedule."

At the disposition hearing, mother testified that she and father shared legal custody and father had "temporary primary custody with every other weekend and third

² It is appellant's duty to provide a record affirmatively establishing error. (*In re Raymundo B.* (1988) 203 Cal.App.3d 1447, 1452.)

weekend.” And in its dispositional ruling, the court made express findings regarding the nature of the parents’ prior custody of the minor. It modified the form orders it had been provided “because this is a case where these are two parents who had joint physical custody, and, you know, the forms really don’t cater to this situation. . . . So I’ve actually whited out in the title of the form and put, ‘Dispositional Attachment, Removal from Custodial Parent, Placement with Other Custodial Parent.’ ” It further modified the language of the order to reflect that father was not residing “full-time” with the minor at the time the jurisdictional events or conditions arose.

Although disputed by mother on appeal, no objections to these findings or modifications were made in the juvenile court. The record thus establishes that parents had joint physical custody of the minor when the petition was initiated.³

II

Jurisdiction

Mother contends the juvenile court erred in asserting dependency jurisdiction “as a matter of law” because the allegations in the petition concerned mother and the minor was residing with father. Mother also contends the exercise of jurisdiction is not supported by substantial evidence. We find no error.

As set forth above, the juvenile court found the minor resided with mother part-time. Thus, her argument that the court could not assert jurisdiction because the minor did not reside with her fails. In any event, mother cites no authority for her position that jurisdiction cannot be based on the risk to the minor posed by a parent with whom the

³ Mother cites *In re Marriage of Biallas* (1998) 65 Cal.App.4th 755, 759-760 to support her conclusion that father had “sole” physical custody. *Marriage of Biallas* is inapposite as a family law move-away case involving the question of whether the parent seeking to move away had, as a *factual* matter, sole or joint physical custody to determine whether the court had to make a de novo determination regarding what custody arrangement was in the minor’s best interest. (*Ibid.*)

minor does not reside. To the contrary, a juvenile court is statutorily empowered to assume dependency jurisdiction over a child once it determines the minor falls under subdivisions (a) through (j) of section 300. (§ 245.) Indeed, the “juvenile court may assume jurisdiction over a child described in Section 300 regardless of whether the child was in the physical custody of both parents or was in the sole legal or physical custody of only one parent at the time that the events or conditions occurred that brought the child within the jurisdiction of the court.” (§ 302, subd. (a).)

“[I]t is necessary only for the court to find that one parent’s conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300—e.g., a risk of serious physical harm (subds. (a) & (b)), serious emotional damage (subd. (c)), sexual or other abuse (subds. (d) & (e)), or abandonment (subd. (g)), among others—the child comes within the court’s jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances. A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established. [Citation.] As a result, it is commonly said that a jurisdictional finding involving one parent is ‘ “good against both. More accurately, the minor is a dependent if the actions of either parent bring [him] within one of the statutory definitions of a dependent.” ’ ” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492.)

Mother also argues the evidence was insufficient to support jurisdiction. We disagree. There are some cases in which the animosity that divorcing spouses display toward each other is such that juvenile court jurisdiction “based on the ensuing severe emotional distress” is necessary. (*In re John W.* (1996) 41 Cal.App.4th 961, 975; see

In re Anne P. (1988) 199 Cal.App.3d 183, 198-201.) Although such cases are rare, the evidence supports the juvenile court's finding that this is such a case.

For example, in *In re Anne P.*, the child "was suffering from a severe psychological disturbance which was caused by the unrelenting struggle between her parents." (*In re Anne P.*, *supra*, 199 Cal.App.3d at p. 199.) The evidence of emotional distress, sufficient to uphold jurisdiction, included (1) a videotaped interview with a court-appointed psychiatrist showing the child "distraught and unhappy"; (2) testimony from a probation officer who had repeated contact with the child, stating that she was "'conflicted, confused, suffering a sense of loss, depression' and had 'tremendous unmet needs' "; (3) evidence from multiple sources indicating the child had developed "a near pathological fear of men"; and (4) testimony from the child's foster mother, with 22 years' experience as a foster parent, who thought the child was "one of the more emotionally disturbed children she had cared for," and "was in danger of losing complete control and 'going off the deep end.' " (*Id.* at pp. 190-191.)

Here, there is substantial evidence to support the juvenile court's finding that the minor was suffering, or was at risk of suffering, serious emotional damage or severe anxiety as a result of mother's conduct. The five-year-old minor here had been trapped in a bitter, life-long (for the minor) custody battle waged by his parents. Parents had made at least nine allegations against one another resulting in child welfare referrals between October 2016 and July 2017. A noncourt family maintenance case in 2017, which included individual counseling, coparenting classes, and parenting classes, did not stop mother from disparaging father's family or eliminating future referrals for the same behavior.

The evidence of a relentless state of hostility, particularly directed at father's household, was abundant and clearly a source of emotional distress for the minor. Mother and the maternal grandmother called father and the paternal grandmother hateful names in front of the minor. Mother falsely told the minor his last name was not that of

father. And most egregiously, mother had, on three occasions, made the minor level false accusations of sexual abuse by father. Her behavior, not surprisingly, made the minor feel ill and unsafe in expressing his love for father when in mother's home, or even in calling father "Dad" in mother's presence. He worried if he did so, mother would spank him and "say mean words" to him and harm his father by calling the police. At the time these proceedings were initiated, minor was vomiting regularly, having nightmares, and expressing sadness, anger, and fear.

Despite this emotional trauma, mother remained unwilling or unable to address how her behavior was impacting the minor. She failed to abide by the 2017 voluntary family maintenance plan by refraining from disparaging father's family in front of the minor. She refused to sign, or even work on, a safety plan that would have prohibited her from engaging in the conduct causing the minor distress.

Mother argues that because the minor cries while saying he misses her, her inappropriate behavior cannot be the cause of his trauma and vomiting. It is telling, however, that minor's stomach issues and vomiting began to resolve when mother's visits became supervised—even though the minor spent less time with mother than before detention. In any event, it is undisputed that the minor loves mother, is protective of her, and misses her when he is not in her home. But the evidence also shows the minor was conflicted, distressed, dysregulated, and suffering from anxiety as a result of mother's attempts at parental alienation.⁴

⁴ The minor's therapist, in a letter to the social worker, also stated that there was a strong indication of emotional abuse being inflicted on minor by mother and that she was extremely concerned about mother's attempts at parental alienation, but the therapist was unable to include specifics about the basis for her conclusions due to confidentiality issues. Mother argues in her appellate brief that because the therapist did not provide the court with the basis for these conclusions, the opinion in this regard cannot, by itself, constitute substantial evidence of emotional abuse. Because, however, neither the

The juvenile court's jurisdictional findings are supported by substantial evidence.

III

Removal

Mother also challenges the juvenile court's order removing the minor from her custody and care. She contends the order was improper because the minor was not in her custody at the time the petition was initiated. She also contends the order is not supported by substantial evidence. We disagree on both counts.

Mother contends the court lacked authority to “ ‘remove’ ” the minor from her physical custody under section 361, subdivision (c) because he was not living with her at the time the petition was filed. Again, mother's argument rests on the false premise that father had sole custody of the minor. We thus reject this challenge to the court's authority to enter the removal order.

Additionally, issuance of a removal order is not limited to the circumstances identified in section 361, subdivision (c). Even if mother did not have joint custody of the minor, mother's challenge to the court's authority to remove the minor from her custody would fail. Mother relies on the statutory text, *In re Dakota J.* (2015) 242 Cal.App.4th 619, 627, and *In re Abram L.* (2013) 219 Cal.App.4th 452, 460-461 for the proposition that section 361, subdivision (c) does not apply to children not in the parent's physical custody. But after *In re Dakota J.*, the Legislature amended section 361 to expressly address removal from the physical custody of a parent with whom the child *did not reside* at the time the petition was initiated. (See § 361, subd. (d).)⁵ Thus, even if mother did not share custody, the juvenile court was authorized to remove the minor.

juvenile court nor this opinion rely on the therapist's conclusions in this regard, we need not address the argument further.

⁵ Effective January 1, 2018, section 361, subdivision (d) reads: “A dependent child shall not be taken from the physical custody of his or her parents, . . . with whom the child did not reside at the time the petition was initiated, unless the juvenile court finds

We review mother's challenge to the evidence supporting the removal order for substantial evidence. “ “[O]n appeal from a judgment required to be based upon clear and convincing evidence, “the clear and convincing test disappears . . . [and] the usual rule of conflicting evidence is applied, giving full effect to the respondent's evidence, however slight, and disregarding the appellant's evidence, however strong.” [Citation.]’ ” (*In re Alexander C.* (2017) 18 Cal.App.5th 438, 451.) “We have no power to judge the effect or value of the evidence, to weigh the evidence, [or] to consider the credibility of witnesses” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52.) Mother has the burden to demonstrate that no substantial evidence supports the order. (*In re D.B.* (2018) 26 Cal.App.5th 320, 328-329.)

Initially, the court's jurisdictional findings are prima facie evidence that the child cannot safely remain in the home and removal is necessary. (*In re A.F.* (2016) 3 Cal.App.5th 283, 292; *In re A.S.* (2011) 202 Cal.App.4th 237, 247.) The court may consider a parent's past conduct as well as present circumstances. (*In re A.F.*, at p. 292.)

The extensive evidence of hostility and mother's efforts to estrange the minor from father, causing the minor emotional and physical distress and anxiety, is detailed earlier in this opinion and we need not repeat it here. Mother's failure to take responsibility, and her failure to participate in the Department's prepetition attempts to remedy the causes of the minor's emotional trauma, demonstrate her inability or unwillingness to deal with the problems giving rise to this action.

The only change in mother's behavior is the report that, more recently, she was trying not to disparage father in the minor's presence. Yet, despite this effort, during a

clear and convincing evidence that there would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child for the parent . . . to live with the child or otherwise exercise the parent's . . . right to physical custody, and there are no reasonable means by which the child's physical and emotional health can be protected without removing the child from the child's parent's . . . physical custody.”

supervised visit, she over-questioned the minor, as if “fishing for information,” causing the minor to “shut[] down.” And while mother may have begun to encourage the minor to refer to father as “Dad,” the minor is still reluctant to do so, or to let mother know he loves father. At the time of disposition, mother had not begun group psychotherapy or intensive individual psychotherapy, or the dialectical behavior therapy recommended by the psychologist who evaluated her. Moreover, the psychologist recommended mother’s visits remain supervised and opined she was not ready to see the minor without supervision. The evidence strongly supports the removal order.

While mother argues that the family law court was better suited to handle these issues, this assertion is belied by all the unresolved problems remaining after four years in family law court, and the fact that mother was unsuccessfully ordered to refrain from disparaging father’s family as part of the family law orders. The purpose of the California dependency system is to protect children from harm, ensure their physical and emotional well-being, and preserve families when possible. (§ 300.2.) This case falls within these purposes and within the jurisdiction of the juvenile court.

In sum, considering mother’s history of inappropriate parental alienation tactics, and her failure to make substantial progress in addressing her behavior, mother remained a risk to the minor’s emotional health and well-being. The evidence supports the juvenile court’s finding that removal from her custody, and supervised visitation, is necessary to protect the minor from continued emotional abuse.

IV

Placement in Department’s Care

Mother also contends the juvenile court improperly delegated its judicial powers when, after asserting dependency jurisdiction, but before the disposition hearing, it gave the Department discretion to place the minor with father and allowed father to relocate with minor to South Carolina. The order about which mother complains, however, is no

longer in effect. At disposition, the juvenile court entered an order placing the minor with father, who had already moved to South Carolina. Thus, the issue is moot.

“It is well settled that an appellate court will decide only actual controversies. Consistent therewith, it has been said that an action which originally was based upon a justiciable controversy cannot be maintained on appeal if the questions raised therein have become moot by subsequent acts or events.” (*Finnie v. Town of Tiburon* (1988) 199 Cal.App.3d 1, 10.) Although this court has discretion to reach the merits of otherwise moot claims when they involve “matters of broad interest that are likely to recur” (*In re Mark C.* (1992) 7 Cal.App.4th 433, 440; *In re Jody R.* (1990) 218 Cal.App.3d 1615, 1621-1622), or “issue[s] capable of repetition yet evading review” (*In re Raymond G.* (1991) 230 Cal.App.3d 964, 967), mother has not shown the alleged errors identified and briefed on appeal meet these standards. The alleged errors briefed by mother are fact specific to the procedural circumstances of this case. Moreover, mother could have sought review by a timely petition for writ of mandate if she had so chosen, while we could still provide a remedy (such as requiring additional findings or restricting the Department’s discretion). Instead, she waited until the complained-of order was replaced by the dispositional judgment placing the minor with father.

As we cannot provide any meaningful relief in this appeal, we conclude that mother’s claims are moot. (*In re Pablo D.* (1998) 67 Cal.App.4th 759, 761; *In re Michelle M.* (1992) 8 Cal.App.4th 326, 330.)

To the extent mother contends the juvenile court applied the wrong legal standard at *disposition* because it did not discuss factors applicable in family law matters when a custodial parent wishes to exercise a right to change the child’s residence, we reject her contention. As the minor’s presumed parent, father has both a constitutionally protected interest in custody and a statutory right to custody, and is, therefore, *entitled* to custody of the minor, absent a finding by clear and convincing evidence that the placement would be detrimental to the minor’s safety, protection, or physical or emotional well-being.

(*In re Abram L.*, *supra*, 219 Cal.App.4th at p. 461; § 361, subd. (c); see also § 361.2, subd. (a).) The party opposing placement has the burden to show by clear and convincing evidence that the child will be harmed if the parent is given custody. (*In re Jonathan P.* (2014) 226 Cal.App.4th 1240, 1256.) Mother did not meet that burden. There was no evidence—indeed, no *argument*—of detriment to the minor if placed with father.

V

Denial of Dismissal

Mother next argues that the juvenile court erring in denying her request for a dismissal of the petition at the disposition hearing pursuant to section 390. Although mother raises this issue in a separate heading, she fails to provide this court with reasoned argument or citation to recognized legal authority. (See Cal. Rules of Court, rule 8.204(a)(1)(B).) Instead, she merely refers back to her arguments made in opposition to jurisdiction, which we have rejected. Thus, we need not consider her contention of error. (See *People v. Turner* (1994) 8 Cal.4th 137, 214, fn. 19 [issues perfunctorily asserted need not be considered]; see also *In re A.C.* (2017) 13 Cal.App.5th 661, 672-673.)

VI

Visitation Order

Finally, mother contends the visitation order, entered at disposition, is invalid because it improperly delegated to the Department the authority to determine the frequency and duration of her visits.

A party forfeits a claim that the juvenile court improperly delegated its visitation authority to a third party when she fails to object in the juvenile court. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 685-686; *In re Anthony P.* (1995) 39 Cal.App.4th 635, 640-642.) “The purpose of this rule is to encourage parties to bring errors to the attention of the trial court, so that they may be corrected. [Citation.]” (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, superseded by statute on other grounds as stated in

In re S.J. (2008) 167 Cal.App.4th 953, 961-962.) “[A]pplication of the forfeiture rule is not automatic.” (*In re S.B.*, 32 Cal.4th at p. 1293.) “But the appellate court’s discretion to excuse forfeiture should be exercised rarely and only in cases presenting an important legal issue. [Citations.] Although an appellate court’s discretion to consider forfeited claims extends to dependency cases [citations], the discretion must be exercised with special care in such matters. ‘Dependency proceedings in the juvenile court are special proceedings with their own set of rules, governed, in general, by the Welfare and Institutions Code.’ [Citation.] Because these proceedings involve the well-being of children, considerations such as permanency and stability are of paramount importance. [Citation.]” (*Ibid.*)

Mother, who was present with counsel at the disposition hearing, did not object to the visitation order in the juvenile court. Had a timely objection been lodged, the juvenile court would have had an opportunity to timely address the objection and modify the order, if necessary. By failing to object, mother tacitly consented to the order as phrased and has forfeited the ability to challenge it.

DISPOSITION

The judgment and orders of the juvenile court are affirmed.

KRAUSE, J.

We concur:

ROBIE, Acting P. J.

RENNER, J.